

Data Processing and Sharing Requirements Schedule

1. Definitions

1.1 In this Schedule, unless the context otherwise requires, the following words and expressions have the following meanings:

“Agreement”	any agreement for the supply of services entered into by the parties whether forming part of the contract to which this schedule is attached or otherwise.
“Controller”	has the meaning given in the GDPR.
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement.
“Data Subject”	has the meaning given in the GDPR.
“Data Protection Officer”	has the meaning given in the GDPR.
“Data Protection Legislation”	the General Data Protection Regulation (EU 2016/679), the Data Protection Act 2018 and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time in the UK, and all applicable law about the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.
“GDPR”	the General Data Protection Regulation (EU 2016/679).
“Personal Data”	has the meaning set out in the GDPR and relates only to personal data, or any part of such personal data, of which the Customer is the Data Controller and in relation to which the Contractor is providing services under the Agreement.
“Processor” and “processing”	have the meaning set out in the GDPR.
“Contractor Personnel”	means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or any sub-contractor engaged in the performance of its obligations under this Agreement.

“Sub-Processor” any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

1.2 For the purposes of this Schedule, the Financial Ombudsman Service Limited is referred to as **“Customer”** and the Contractor (as referred to in the Shortened Terms & Conditions) will be referred to as the **“Contractor”**, together the **“parties”**.

2. Basis for Processing or Sharing

2.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Schedule is in addition to, and does not relieve, remove or replace, the parties obligations under the Data Protection Legislation.

2.2 The parties acknowledge that for the purposes of this Agreement, the Customer is the Data Controller and the Contractor is the Data Processor of any Personal Data.

2.2 The basis for processing and sharing Personal Data under this Agreement is in accordance with a lawful basis for processing Personal Data provided for by the Data Protection Legislation. The details of the data processing activities in relation to this Agreement are set out in Annex A.

3. Obligations of the Contractor

3.1 The Contractor shall only process any Personal Data on behalf of the Customer in accordance with the written instructions provided and to the extent, and in such a manner as set out in Annex A. If the Contractor is required to do otherwise by law then it will promptly notify the Customer of that legal requirement before processing the Personal Data.

3.2 The Contractor shall provide all reasonable assistance to Customer in the preparation of any data protection impact assessment required prior to commencing any processing.

3.3 The Contractor will maintain complete and accurate records of any processing of Personal Data it carries out on behalf of the Customer.

3.4 If the Contractor receives any complaint, notice or communication which relates directly or indirectly to the processing or sharing of the Personal Data or to either party's compliance with the Data Protection Legislation, it shall promptly notify the Customer and provide full co-operation and assistance in relation to any such complaint, notice or communication.

3.5 The Contractor shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing and to protect against a Data Loss Event. The protective measures should take account of:

3.5.1 the nature of the data to be protected;

3.5.2 the harm that might result from a Data Loss Event;

3.5.3 the state of technological development; and

3.5.3 the cost of implementing any measures.

3.6 The Contractor shall promptly inform the Customer if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Contractor will restore such Personal Data at its own expense.

3.7 The Contractor shall notify the Customer immediately if it becomes aware of any unauthorised or unlawful processing of Personal Data and in such circumstances shall comply with all requests of the Customer in dealing with the situation.

3.8 At the Customer's request, the Contractor shall provide to the Customer a copy of all Personal Data held by it in the format and in the media reasonably specified by the Customer.

3.9 Upon termination of the Agreement for any reason, the Contractor shall cease processing any Personal Data and shall return all Personal Data to the Customer and any copies thereof or shall securely destroy all Personal Data if instructed to do so by the Customer and shall certify that this has been done, unless prevented from doing so by law.

4. Transfers outside the EEA

4.1 The Contractor shall not transfer any Personal Data outside of the European Economic Area ("EEA") unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

4.1.1 the Contractor has provided appropriate safeguards in relation to the transfer to the satisfaction of the Customer;

4.1.2 the Data Subject has enforceable rights and effective legal remedies;

4.1.3 the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection for any Personal Data that is transferred; and

4.1.4 the Contractor complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

5. Contractor's Personnel

5.1 The Contractor shall ensure that access to the Personal Data is limited to those Personnel who need access to the Personal Data to meet the Contractor's obligations under this Agreement.

5.2 The Contractor shall ensure that all Personnel:

5.2.1 are aware both of the Contractor's duties and their personal duties and obligations under the Data Protection Legislation and this Agreement;

- 5.2.2 are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement;
- 5.2.3 are subject to appropriate confidentiality undertakings with the Contractor or any Sub-Processor; and
- 5.2.4 have undertaken adequate training on the Data Protection Legislation relating to the use, care, protection and handling of Personal Data.

6. Rights of the Data Subject

- 6.1 The Contractor shall notify the Customer immediately if it:
 - 6.1.1 receives a request from a Data Subject for access to that person's Personal Data;
 - 6.1.2 receives a request to rectify, block or erase any Personal Data;
 - 6.1.3 receives a request from any third party for disclosure of Personal Data where compliance with such a request is required or purported to be required by Law; or
 - 6.1.4 becomes aware of a Data Loss Event.
- 6.2 The Contractor shall provide the Customer with full co-operation and assistance in relation to any request referred to in clause 6.1.
- 6.3 The Contractor shall promptly comply with any request from the Customer requiring the Contractor to amend, transfer or delete the Personal Data.
- 6.4 The Contractor shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Customer or as provided for in this Schedule.
- 6.5 The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.

7. Rights of the Customer

- 7.1 The Customer is entitled, on giving reasonable notice to the Contractor, to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of Personal Data by the Contractor.
- 7.2 The requirement under clause 7.1 to give notice will not apply if the Customer believes that the Contractor is in breach of any of its obligations under this Agreement.
- 7.3 If following an inspection the Customer believes that any Personnel of the Contractor is causing the Contractor to be in breach of the Data Protection Legislation then the Customer may request that the Contractor no longer uses

such Personnel for the purposes of handling Personal Data under this Agreement.

8. Warranties

8.1 The Contractor warrants that:

8.1.1 it will process (and share) the Personal Data in compliance with the Data Protection Legislation and all other applicable laws, enactments, regulations, orders, standards and other similar instruments;

8.1.2 it will take such appropriate technical and organisational measures in order to ensure the safety and security of the Personal Data as may be specified from time to time by the Customer; and

8.1.3 it will take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data.

9. Indemnity

9.1 The Contractor agrees to indemnify the Customer and keep indemnified and defend at its own expense against all costs, claims, damages or expenses incurred by the Customer or for which the Customer may become liable due to any failure by the Contractor or its Personnel to comply with the Data Protection Legislation or any of its other obligations under this Schedule.

9.2 The Contractor shall take out insurance sufficient to cover any payment that may be required under clause 9.1 and produce the policy and receipt for premium paid, to the Customer on request.

10. Appointment of Sub-Processors

10.1 The Contractor may only authorise a third party (Sub-Processor) to process the Personal Data:

10.1.1 subject to the Customer's prior written consent where the Contractor has supplied the Customer with full details of such Sub-Processor;

10.1.2 provided that the Sub-Processor's contract is on terms which are substantially the same as those set out in this Schedule; and

10.1.3 provided that the Sub-Processor's contract for services provided to the Customer terminates automatically on termination of the Agreement for any reason.

10.2 The Contractor shall remain fully liable for all acts or omissions of any Sub-Processor.

11. Data sharing

- 11.1 The parties acknowledge that there may be circumstances in which Personal Data is transferred to the Contractor and the Contractor becomes a Data Controller in respect of that Personal Data. Furthermore the Contractor acknowledges that in such circumstances the Contractor will comply with all its obligations as a Data Controller under the Data Protection Legislation, will determine the purposes for which the Personal Data is being processed and will be liable directly to the Data Subject and regulatory authorities in relation to its responsibilities as Data Controller.
- 11.2 The Contractor confirms that where Personal Data is shared in the circumstances envisaged by clause 11.1 above then it shall:
- 11.2.1 have in place an appropriately worded privacy and data protection policy;
 - 11.2.2 where appropriate, it will directly inform the relevant Data Subjects that it is processing their Personal Data and is the Data Controller in respect of that Personal Data;
 - 11.2.3 ensure that it has in place appropriate procedures for dealing with requests or any other complaints or queries from Data Subjects;
 - 11.2.4 have in place procedures and mechanisms for keeping all Personal Data accurate and up to date in accordance with its obligations as a Data Controller under the Data Protection Legislation; and
 - 11.2.5 the Contractor agrees to promptly supply copies of its policies, procedures, notices and requests (and such other information as may be reasonably required by the Customer) to the Customer upon request.
- 11.3 The Customer reserves the right to require the Contractor to inform the Customer in writing of the uses to which the Contractor intends to put the Personal Data and the ways in which it intends to process the Personal Data. Furthermore the Customer reserves the right to not share any Personal Data if it believes that such uses and purposes described by the Contractor are inappropriate or incompatible with the requirements of the Data Protection Legislation.
- 11.4 If the Customer believes that the transfer of Personal Data may amount to data sharing as envisaged by this clause then the Customer may require the Contractor to:
- 11.4.1 complete the Customer's data protection questionnaire or any other request for information;
 - 11.4.2 enter into a new data sharing agreement which may, where appropriate, also be binding on other third parties with whom data is being shared (and for the avoidance of doubt in the event that a further such agreement is entered into, the terms of this Schedule and Agreement shall continue to apply).

11.5 For the avoidance of doubt the other terms of this Schedule shall continue to apply to the parties and in respect of Personal Data where it is being shared under this clause 11 as necessary, including for the avoidance of doubt clause 8 (Warranties) and clause 9 (Indemnity).

12. Review

12.1 The Customer may, at any time, on giving not less than 30 working days' written notice, revise this Schedule to ensure that it complies with any amendments to the Data Protection Legislation or any guidance issued by the Information Commissioner's Office. Any amendments to this Schedule will become effective when agreed in writing between the parties.

Annex A – Schedule of Processing, Personal Data and Data Subjects

Description	Details
Subject matter of the processing	[This should be a high level, short description of what the processing is about i.e. its subject matter]
Duration of the processing	[clearly set out the duration of the processing including dates]
Nature and purposes of the processing	<p>[Please be as specific as possible, but make sure that you cover all intended purposes.</p> <p>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data]</p>
Type of Personal Data	[Examples include: name, address, date of birth, telephone number]
Categories of Data Subject	[Examples include: staff (including volunteers, agents and temporary workers), customers, clients, suppliers]
Retention period(s) for Personal Data during the contract term and process for destruction of data at end of retention period/s.	[Describe how long the data will be retained during the contract and how it will be destroyed at the end of the retention period/s e.g. the Contractor will provide a destruction certificate to confirm deletion of the data]
Plan for return and destruction of the data once the processing is complete (unless legal requirement to preserve that type of data).	[Describe how the data will be returned or destroyed on termination or expiry of the contract e.g. the Contractor will provide a destruction certificate to confirm deletion of the data]
Sub-Processors	[This should be a list of Sub-Processors that you will be using to supply the services and what Personal Data they will be processing and the jurisdiction of the sub-processing including any backup locations]